

Docket No.: 15588-00024-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Oemer Uensal et al.

Application No.: 10/584,965

Confirmation No.: 9971

Filed: November 7, 2008

Art Unit: 1726

For: PROTON-CONDUCTING MEMBRANE AND
USE THEREOF

Examiner: K. O. Apicella

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed August 29, 2011, applicant hereby provisionally elects Species I (claims 28-55, 59-60 and 62) for continued examination, with traverse.

Applicant believes that the restriction requirement is not proper. Claim 56-58 and claim 61 corresponds to the original claims 23, 24 and 27. It is noted in the PCT proceeding the European Examiner did not require a lack of unity between the original claims 1-27. The Examiner did not believe that there was a separate invention. See the international search report which indicates that all of the claims were examined and there was not a lack of unity. For this alone this restriction requirement should be withdrawn.

Applicants respectfully traverse the Restriction requirement because the U.S. Patent and Trademark Office has not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:
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If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicants respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

If however, the Examiner maintains the restriction requirement the applicant respectfully requests that species 2 be rejoined upon determining allowance of species 1.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 15588-00024-US from which the undersigned is authorized to draw.

Dated: September 14, 2011

Respectfully submitted,

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